IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

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WRIT PETITION NO : 27363 of 1998

Between:

Medisetti Narayana Rao, S/o. Nooka Raju,
Mallam Primary Agricultural Coop. Society, Ltd., No. 2761,Mallam(V),
Pithapuram(M), East Godavari District.

..... PETITIONER

AND

1 Registrar of Cooperative Society,
Hyderabad, Andhra Pradesh,
2 Divisional Coop.Officer,
Kakinada, East Godavari District.
3 General Mnager., The Dist.Coop. Central Bank Ltd.,
Kakinada, East Godavari District.
4 Mallam Primary Agril.Coop.Central Bank Ltd., Rep.by it's President,
No.2761,Mallam(V), Pithapuram(M),
East Godavari District.
5 Circle Supervisor, Dist. Coop.Central Bank Ltd.,
Pithapuram Branch Incharge Secretary Mallam PACS Ltd., No.2761,
Mallam (V), Pithapuram(M), East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue , Writ order or directing more particularly in the nature of Writ of Mandamus declaring the non-sanctioning of leave w.e.f. 11.8.96 to 13.3.97 and from 16.9.97 to 5.6.98 besides non-payment of Salaries for the period as also to the duty period from

14.3.97 to 15.9.97 to the petitioner herein based on the Last Pay certificate dt.20.6.98 for the month August 1996 together with interest @18% p.a. from the date salary payable to the date actual payment by the 4th Respondent i.e. president of the Mallam Primary Agricultural cooperation Society Ltd., No. 2761 Mallam (V), Pithapuram(M), E.G.Dist and failure on the part of the 1st to 3rd respondent herein(i.e.) Registrar of Coop. Society, A.P. Hyderabad, Divisional Coop. Officer, Kakinada E.G.Dist, and General Managing Dist.Coop Central Bank Ltd., Kakinada, E.G.dist. respectively to ensure payment of salaries to the petitioner as per the orders dt.30.8.96 in W.P.16558/92 & Batch as also the orders dt.31.10.97 in W.P.28473/97 of this Hon'ble Court . The non-payment of Subsistance allowance to the petitioner w.e.f. 6.6.98 basis on the Last Pay Certificate dt.20.6.98 issued by the 5th respondent herein i.e. the Circle Supervisor/incharge secretary, Mallam PACS Ltd., Mallam(V), Pithapuram(M), E.G.Dist in terms of Section 47(6) of the A.P. Shops & Establishment Act1988, as illegal arbitrary, without jurisdiction malafide, inhuman contrary to besides being violative of art 14 & 21 of the Constitution of India and pass such order or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:MR.D.V.BHADRAM

Counsel for the Respondent Nos.1 and 2: GP FOR COOPERATION

Counsel for the Respondent No.3:Mr.C.V.Mohan Reddy (None appeared)

Counsel for the Respondent Nos.4 and 5: Mr.S.Srinivasa Reddy

The Court made the following :

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ORDER:

This writ petition is filed seeking a *Mandamus* to declare the action of the respondents in denying the petitioner salary and suspension allowance for certain periods.

Admittedly, the petitioner is an employee of the Mallam Primary Agricultural Cooperative Society Limited (for short “the Society”), Pithapuram Mandal, East Godavari District. The respondents have taken a primary objection as to the maintainability of the writ petition against the said Society. According to the respondents, the Society is not an instrumentality of the State attracting the provisions of Article 12 of the Constitution of India and that the remedy is available elsewhere may be by way of raising a dispute under the A.P. Shops and Establishments Act, 1988 etc.

The law is well settled in this regard and the writ petition is not maintainable against the service conditions of the employees of the said Society since their service conditions are not regulated by any Rules made under Article 309 of the Constitution of India or under any Statute or Rules made thereunder. Therefore, the writ petition is liable to be dismissed on this ground alone.

Accordingly, the writ petition is dismissed. No order as to costs. However, this will not preclude the petitioner from working out his remedies as available under law.

21-06-2005

GJ

To

1 The Registrar of Cooperative Society,
Hyderabad, Andhra Pradesh,
2 The Divisional Coop.Officer,
Kakinada, East Godavari District.
3 The General Mnager., The Dist.Coop. Central Bank Ltd.,
Kakinada, East Godavari District.
4 The President, Mallam Primary Agril.Coop.Central Bank Ltd.,
No.2761,Mallam(V), Pithapuram(M),
East Godavari District.
5 The Circle Supervisors, Dist. Coop.Central Bank Ltd.,
Pithapuram Branch Incharge Secretary Mallam PACS Ltd., No.2761,
Mallam (V), Pithapuram(M), East Godavari District.

6. Two C.Cs. to the Government Pleader for Cooperation, High Court of A.P., Hyderabad. (O.U.T.)

7. Two C.D. copies.